
Introduced by Senator Florez

February 25, 2009

An act to amend Sections 221, 58892.2, 61345, 61384, 61411.2, 61810, 62079, 62146, 62149, 62151, 62191, 62193, 62502, 62504, 62520, 62564, 62565, 62580, 62582, 62623, 62660, 62750, and 64305 of, to repeal Sections 62563, 62564.5, and 62640 of, and to repeal Chapter 3 (commencing with Section 62700) of Part 3 of Division 21 of, the Food and Agricultural Code, relating to milk.

LEGISLATIVE COUNSEL'S DIGEST

SB 362, as introduced, Florez. Milk pooling: equalization pools.

Existing law, the Gonsalves Milk Pooling Act (the act), provides for equalization pools and milk pooling to govern the production and distribution of fluid milk and fluid cream. The act authorizes the Secretary of Food and Agriculture to develop a pooling plan, with specified items required to be included in the pooling plan, under which producers of milk are assigned a pool quota that determines the amount of class 1 milk the producer can sell to handlers within the pooling system and the prices to be paid by handlers to producers. The act provides related provisions concerning fee assessments, violations, and other pooling plan requirements.

This bill would repeal the act and make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 221 of the Food and Agricultural Code
2 is amended to read:

221. The “Department of Food and Agriculture Fund,” which is a special fund, is continued in existence. Any money that is directed by law to be paid into the fund shall be paid into it and, unless otherwise specifically provided, shall be expended solely for the enforcement of the law under which the money was derived. The expenditure from the fund for the enforcement of any law shall not, unless otherwise specifically provided, exceed the amount of money that is credited to the fund pursuant to the law.

Notwithstanding Section 13340 of the Government Code, all money deposited in the fund under the provisions enumerated below is hereby continuously appropriated to the department without regard to fiscal years for expenditure in carrying out the purposes for which the money was deposited and for making the refunds authorized by Section 302.

All money deposited in the fund under the provisions enumerated below is hereby exempted from Sections 13320 to 13324, inclusive, of the Government Code:

(a) Article 7 (commencing with Section 5821) and Article 7.5 (commencing with Section 5850) of Chapter 8 of Part 1 of Division 4, Chapter 1 (commencing with Section 6701) of Part 3 of Division 4, and Chapter 5 (commencing with Section 53301) of Division 18.

(b) Article 5 (commencing with Section 6001) of Chapter 9 of Part 1 of Division 4.

(c) Article 8.5 (commencing with Section 6047.1) of Chapter 9 of Part 1 of Division 4.

(d) Article 4.5 (commencing with Section 6971) and Article 5 (commencing with Section 6981) of Chapter 2 of Part 3 of Division 4.

(e) Chapter 4 (commencing with Section 14200), Chapter 5 (commencing with Section 14501), and Chapter 6 (commencing with Section 14901) of Division 7.

(f) Part 1 (commencing with Section 16301) and Part 2 (commencing with Section 17401) of Division 9.

(g) Sections 19225, 19227, 19312, and 19315.

(h) Division 10 (commencing with Section 20001).

(i) Division 11 (commencing with Section 23001).

(j) Part 4 (commencing with Section 27501) of Division 12.

(k) Division 16 (commencing with Section 40501).

(l) Chapter 9 (commencing with Section 44971) of Division 17.

(m) Chapter 1 (commencing with Section 52001) of Division 18.

(n) Chapter 2 (commencing with Section 52251) of Division 18.

(o) Chapter 3 (commencing with Section 52651) of Division 18.

(p) Chapter 4 (commencing with Section 52851) of Division 18.

(q) Chapter 6 (commencing with Section 55401), Chapter 7 (commencing with Section 56101), and Chapter 7.5 (commencing with Section 56701) of Division 20.

(r) Section 58582.

(s) Chapter 1 (commencing with Section 61301); *and* Chapter 2 (commencing with Section 61801); ~~and Chapter 3 (commencing with Section 62700)~~ of Part 3 of Division 21.

(t) Chapter 5.5 (commencing with Section 12531) of Division 5 of the Business and Professions Code.

(u) Chapter 7 (commencing with Section 12700) of Division 5 of the Business and Professions Code.

(v) Chapter 14 (commencing with Section 13400) and Chapter 15 (commencing with Section 13700) of Division 5 of the Business and Professions Code.

SEC. 2. Section 58892.2 of the Food and Agricultural Code is amended to read:

58892.2. No marketing order for milk shall be issued by the ~~director~~ *secretary* unless he *or she* finds that such marketing order does not conflict with the provisions of Chapter 2 (commencing with Section 61801) ~~or Chapter 3 (commencing with Section 62700)~~ of Part 3 of Division 21.

SEC. 3. Section 61345 of the Food and Agricultural Code is amended to read:

61345. Chapter 2 (commencing with Section 61801); *and* Chapter 2.5 (commencing with Section 62500); ~~and Chapter 3 (commencing with Section 62700)~~ shall be liberally construed as being complementary of, and supplemental to, this chapter, and these chapters shall constitute a single comprehensive scheme for the regulation of the production and handling of milk. However, each of the chapters, and each article, section, subdivision, sentence, clause, and phrase of each chapter is severable.

1 If one of the chapters or any article, section, subdivision,
2 sentence, clause, or phrase of any one of the chapters is for any
3 reason held void, invalid, or unconstitutional, the decision shall
4 not affect the validity of any other chapter or any of its articles,
5 sections, subdivisions, sentences, clauses, or phrases.

6 SEC. 4. Section 61384 of the Food and Agricultural Code is
7 amended to read:

8 61384. (a) The sale by any retailer, wholesale customer,
9 manufacturer, or distributor, including any producer-distributor
10 or nonprofit cooperative association acting as a distributor, of milk,
11 cream, or any dairy product at less than cost is an unlawful practice.
12 This subdivision applies to finished products, and does not apply
13 to sales of bulk milk between handlers.

14 (b) For the purposes of this section, the following terms have
15 the following meanings:

16 (1) “Cost,” as applied to manufacturers and distributors, means
17 the total consideration paid or exchanged for raw product, plus the
18 total expense incurred for manufacturing, processing, handling,
19 sale, and delivery.

20 (2) “Cost,” as applied to wholesale customers, means the invoice
21 price charged to the wholesale customer, or the expense of
22 replacement, whichever is lower, plus the wholesale customer’s
23 cost of doing business.

24 (3) “Cost of doing business,” as applied to wholesale customers,
25 means a wholesale customer’s total operating expense divided by
26 the customer’s total sales income.

27 (4) (A) Except as provided in subparagraph (B), “total
28 consideration paid or exchanged for raw product,” in the case of
29 market milk or market cream used in the manufacture of class 1,
30 2, and 3 products, means the department’s current announced
31 regulated minimum price of the market milk or market cream,
32 payable by handlers to producers, ~~except as provided in Section~~
33 ~~62708.5.~~

34 (B) Notwithstanding subparagraph (A), in situations involving
35 sales on a bid basis to public agencies or institutions, the definition
36 in subparagraph (A) shall only apply to market milk or market
37 cream that is utilized for class 1 purposes, as those purposes are
38 defined in Chapter 2 (commencing with Section 61801).

39 (c) Proof of cost, based on audits or surveys conducted in
40 accordance with generally accepted accounting principles as

1 defined by the American Institute of Certified Public Accountants
2 and the Financial Accounting Standards Board, and modified, if
3 necessary, to satisfy the requirements of this section, shall establish
4 a rebuttable presumption of that cost at the time of the transaction
5 of any sale. This presumption is a presumption affecting the burden
6 of proof, but it does not apply in a criminal action.

7 (d) Nothing in this section shall be deemed to prohibit any of
8 the following activities:

9 (1) The meeting, in good faith, of a lawful competitive price or
10 a lawful competitive condition.

11 (2) A distributor's action in making conditional sales of
12 equipment or other property, extending credit for merchandise
13 purchased, or paying a customer's obligations not otherwise
14 prohibited by this chapter to another distributor in connection with
15 the transfer of the customer's business from the latter to the former.

16 (e) The secretary shall establish, by regulation pursuant to
17 Section 61341, the procedures which shall be used to make the
18 determinations required by this section, including the following:

19 (1) Any modifications to the generally accepted accounting
20 principles described in subdivision (c) necessary to satisfy the
21 requirements of this section.

22 (2) Procedures for evaluating efforts to meet lawful competitive
23 prices or conditions.

24 (3) Other procedures necessary or appropriate to facilitate the
25 application or enforcement of this section.

26 SEC. 5. Section 61411.2 of the Food and Agricultural Code is
27 amended to read:

28 61411.2. Section 61411 does not apply to the purchase of
29 manufacturing milk which is necessary to meet an unanticipated
30 increase in demand or an unanticipated shortage in the supply of
31 a handler if the quantity purchased from any one producer does
32 not exceed 5,000 gallons in any one month. However, if the
33 producer is a cooperative association acting as a producer, the total
34 quantity purchased shall not exceed 30,000 gallons per month.

35 For a single transaction between a producer and handler, payment
36 shall be made for the amount of milk delivered during the first 15
37 days of any calendar month not later than the first day of the next
38 following month and payment shall be made for the amount of
39 milk delivered during the remainder of the month not later than
40 the 15th day of the next following month, ~~unless the milk is subject~~

1 to a pooling plan as authorized in Chapter 3 (commencing with
2 Section 62700) and the pooling plan provides for different dates
3 and methods of payment, in which case the date and method of
4 payment for the milk shall be as provided for in the pooling plan.

5 SEC. 6. Section 61810 of the Food and Agricultural Code is
6 amended to read:

7 61810. Chapter 1 (commencing with Section 61301); *and*
8 Chapter 2.5 (commencing with Section 62500); ~~and Chapter 3~~
9 ~~(commencing with Section 62700)~~ shall be liberally construed as
10 being complementary of, and supplemental to, this chapter, and
11 these chapters shall constitute a single comprehensive scheme for
12 the regulation of the production and handling of market milk.
13 However, each of the chapters, and each article, section,
14 subdivision, sentence, clause, and phrase of each chapter is
15 severable.

16 If one of the chapters or any article, section, subdivision,
17 sentence, clause, or phrase of any one of the chapters is for any
18 reason held void, invalid, or unconstitutional, the decision shall
19 not affect the validity of the other chapter or any of its articles,
20 sections, subdivisions, sentences, clauses, or phrases.

21 SEC. 7. Section 62079 of the Food and Agricultural Code is
22 amended to read:

23 62079. Whenever a pooling plan is in effect as provided in
24 ~~Chapter 3 (commencing with Section 62700)~~ and Chapter 3.5
25 (commencing with Section 62750) of this part, all market milk
26 received by pool handlers shall be obligated to the pool at the
27 applicable minimum price established in the Stabilization and
28 Marketing Plans based on the classified usage of that milk.
29 Handlers may pay producers for restricted use market milk at prices
30 that are less than the amount credited to those handlers for
31 restricted use market milk by the pooling plan.

32 SEC. 8. Section 62146 of the Food and Agricultural Code is
33 amended to read:

34 62146. The ~~director~~ *secretary* may refuse to grant or renew
35 any license if he or she is satisfied that any applicant, or any person
36 connected with the applicant, either directly or indirectly, has
37 violated any of the following:

38 (a) This chapter or any stabilization and marketing plan or other
39 regulation adopted under this chapter.

40 (b) Chapter 1 (commencing with Section 61301).

1 ~~(e) Chapter 3 (commencing with Section 62700) or any pooling~~
2 ~~plan established thereunder.~~

3 SEC. 9. Section 62149 of the Food and Agricultural Code is
4 amended to read:

5 62149. The decision may include an order refusing to grant or
6 renew the license applied for, or affixing other conditional and
7 probationary orders that may be proper for the enforcement of any
8 of the following:

9 (a) This chapter or any stabilization and marketing plan
10 formulated pursuant to this chapter.

11 (b) Chapter 1 (commencing with Section 61301).

12 (c) Any regulation duly adopted by the ~~director~~ *secretary*
13 pursuant to Section 61891.

14 ~~(d) Chapter 3 (commencing with Section 62700) or any pooling~~
15 ~~plan established thereunder.~~

16 SEC. 10. Section 62151 of the Food and Agricultural Code is
17 amended to read:

18 62151. The ~~director~~ *secretary* may revoke or suspend, as the
19 case may require, any license which is issued pursuant to this
20 chapter, if he or she is satisfied that any licensee or any person
21 who is connected with the licensee has violated any of the
22 following:

23 (a) This chapter or any stabilization and marketing plan which
24 is formulated pursuant to this chapter.

25 (b) Any regulation which is adopted by the ~~director~~ *secretary*
26 pursuant to Section 61891.

27 (c) Chapter 1 (commencing with Section 61301).

28 ~~(d) Chapter 3 (commencing with Section 62700) or any pooling~~
29 ~~plan adopted thereunder.~~

30 The proceedings shall be conducted in accordance with Chapter
31 5 (commencing with Section 11500) of Part 1 of Division 3 of
32 Title 2 of the Government Code, and the ~~director~~ *secretary* shall
33 have all the powers which are granted in that chapter.

34 SEC. 11. Section 62191 of the Food and Agricultural Code is
35 amended to read:

36 62191. (a) Except as otherwise provided in Section 62193 or
37 62194, the purchase of any market milk in excess of 1,000 gallons
38 monthly from any producer is an unlawful trade practice unless a
39 written contract, which complies with all of the requirements which

1 are prescribed by this section, has been entered into with the
2 producer.

3 (b) The contract shall include all of the following:

4 (1) The amount of market milk which is to be purchased for
5 any period.

6 (2) The minimum quantity of the market milk which is to be
7 paid for as class 1, if any is to be purchased for this purpose. The
8 quantity shall be stated in pounds of market milk, pounds of market
9 milk fat, or gallons of market milk, unless the price which is to be
10 paid for the class 1 market milk is established separately for the
11 market milk fat and market skim milk, in which case the quantity
12 may, in the alternative, be stated in both pounds of market milk
13 fat and pounds of market skim milk separately. The minimum
14 quantity of market milk to be paid for as class 1 shall not be less
15 than 70 percent of the total quantity provided in the contract to be
16 purchased at a milk products plant, and not less than 60 percent
17 of the total quantity of market milk fat, or the total quantity of
18 market skim milk components, but not necessarily both, provided
19 in the contract to be purchased at a country plant, as defined by
20 the ~~director~~ *secretary* in stabilization and marketing plans.

21 (3) The price to be paid for all market milk received.

22 (4) The date and method of payment for the market milk.
23 Payment shall be made for the amount of the market milk delivered
24 during the first 15 days of any calendar month not later than the
25 first day of the next following month and for the amount delivered
26 during the remainder of the month not later than the 15th day of
27 the next following month ~~unless the milk is subject to a pooling~~
28 ~~plan as authorized in Chapter 3 (commencing with Section 62700)~~
29 ~~and the pooling plan provides for different dates and methods of~~
30 ~~payment, in which case the date and method of payment for the~~
31 ~~milk shall be as provided for in the pooling plan.~~

32 (5) The charges for transportation if hauled by the handler.

33 (6) A provision that market milk received within the total
34 quantity provided by the contract to be purchased for any period
35 shall not be paid for at less than the minimum price for market
36 milk used for class 2.

37 (c) The contract may contain other provisions that are not in
38 conflict with this chapter. A signed copy of the contract shall be
39 filed by the producer with the ~~director~~ *secretary* within five days
40 from the date of its execution.

1 ~~(d) Paragraphs (2) and (6) of subdivision (b) shall not be~~
2 ~~applicable if an equalization pool, as provided pursuant to Chapter~~
3 ~~3 (commencing with Section 62700), is in effect for the area in~~
4 ~~which the purchase of the market milk occurs.~~

5 SEC. 12. Section 62193 of the Food and Agricultural Code is
6 amended to read:

7 62193. Section 62191 does not apply to the purchase of market
8 milk which is necessary to meet an unanticipated increase in
9 demand or an unanticipated shortage in the supply of a handler if
10 both of the following occur:

11 (a) The quantity of market milk purchased from any one
12 producer does not exceed 5,000 gallons in any one month.
13 However, if the producer is a cooperative association acting as a
14 producer, the total quantity purchased shall not exceed 30,000
15 gallons per month.

16 (b) A complete record of all of these purchases is kept by the
17 handler, and the price paid for the milk by the handler is not less
18 than the price which is established in the applicable stabilization
19 and marketing plan for the usage to which the milk is applied. For
20 a single transaction between a producer and handler, payment shall
21 be made for the amount of milk delivered during the first 15 days
22 of any calendar month not later than the first day of the next
23 following month and payment shall be made for the amount of
24 milk delivered during the remainder of the month not later than
25 the 15th day of the next following month; ~~unless the milk is subject~~
26 ~~to a pooling plan as authorized in Chapter 3 (commencing with~~
27 ~~Section 62700) and the pooling plan provides for different dates~~
28 ~~and methods of payment, in which case the date and method of~~
29 ~~payment for the milk shall be as provided for in the pooling plan.~~

30 SEC. 13. Section 62502 of the Food and Agricultural Code is
31 amended to read:

32 62502. It is recognized by the Legislature that the powers
33 conferred upon the ~~director~~ *secretary* by Chapter 1 (commencing
34 with Section 61301); *and* Chapter 2 (commencing with Section
35 61801); ~~and Chapter 3 (commencing with Section 62700)~~ are
36 inadequate to enable the dairy industry to maintain satisfactory
37 producer payment protection. Therefore, those powers must be
38 supplemented by the powers conferred by this chapter upon the
39 ~~director~~ *secretary* to establish and administer a milk producers
40 security trust fund.

1 SEC. 14. Section 62504 of the Food and Agricultural Code is
2 amended to read:

3 62504. Chapter 1 (commencing with Section 61301); *and*
4 Chapter 2 (commencing with Section 61801); ~~and Chapter 3~~
5 ~~(commencing with Section 62700)~~ shall be liberally construed as
6 being complementary of, and supplemental to, this chapter, and
7 these chapters shall constitute a single comprehensive scheme for
8 the regulation of the production and handling of milk. However,
9 each of the chapters, and each article, section, subdivision,
10 sentence, clause, and phrase of each chapter is severable.

11 If one of the chapters or any article, section, subdivision,
12 sentence, clause, or phrase of any one of the chapters is for any
13 reason held void, invalid, or unconstitutional, the decision shall
14 not affect the validity of any other chapter or any of its articles,
15 sections, subdivisions, sentences, clauses, or phrases.

16 SEC. 15. Section 62520 of the Food and Agricultural Code is
17 amended to read:

18 62520. Unless otherwise defined in this chapter, or the context
19 otherwise requires, the definitions contained in Chapter 1
20 (commencing with Section 61301); *or* Chapter 2 (commencing
21 with Section 61801); ~~or Chapter 3 (commencing with Section~~
22 ~~62700)~~ govern the construction of this chapter.

23 SEC. 16. Section 62563 of the Food and Agricultural Code is
24 repealed.

25 ~~62563. Any handler subject to any pooling plan in effect under~~
26 ~~Chapter 3 (commencing with Section 62700) shall continue to be~~
27 ~~obligated for the minimum prices provided for in the stabilization~~
28 ~~and marketing plans on the pooled usage of the handler. However,~~
29 ~~any part of the minimum prices that is attributable to the security~~
30 ~~charges established pursuant to Section 62561 shall be deducted~~
31 ~~before producer prices are determined under the pooling plan.~~

32 ~~Any handler subject to the pooling plan that receives milk that~~
33 ~~is not included in the calculation of producer prices determined~~
34 ~~under the pooling plan shall be obligated to pay the security charges~~
35 ~~established pursuant to Section 62561 for any portion of that milk~~
36 ~~that is assigned to class 1, class 2, class 3, class 4a, and class 4b~~
37 ~~usage.~~

38 ~~The amount of any handler's obligation attributable to the~~
39 ~~security charges established pursuant to Section 62561 shall be~~

1 ~~remitted by the secretary to the fund by the end of the month~~
2 ~~following the month the pool calculations were completed.~~

3 SEC. 17. Section 62564 of the Food and Agricultural Code is
4 amended to read:

5 62564. Any handler receiving milk ~~not subject to any pooling~~
6 ~~plan in effect pursuant to Chapter 3 (commencing with Section~~
7 ~~62700)~~ shall be obligated to remit to the secretary any security
8 charges in effect pursuant to Section 62561 for class 1, class 2,
9 class 3, class 4a, and class 4b products produced from the milk
10 and may deduct the security charges from the minimum prices
11 required to be paid to producers.

12 SEC. 18. Section 62564.5 of the Food and Agricultural Code
13 is repealed.

14 ~~62564.5. Any producer-handler who has milk production that~~
15 ~~is exempt pursuant to Section 62708, 62708.1, 62708.5, or 62722~~
16 ~~from the pooling plan in effect pursuant to Chapter 3 (commencing~~
17 ~~with Section 62700) shall be exempt from any security charges~~
18 ~~established pursuant to this article for that exempt production.~~

19 SEC. 19. Section 62565 of the Food and Agricultural Code is
20 amended to read:

21 62565. Security charges may be collected by the ~~director~~
22 ~~secretary~~ through direct payment ~~or through pool accounting~~
23 ~~procedures established by the director pursuant to Chapter 3~~
24 ~~(commencing with Section 62700).~~

25 SEC. 20. Section 62580 of the Food and Agricultural Code is
26 amended to read:

27 62580. Except as otherwise provided in this chapter, milk
28 shipped by a producer to a handler which meets the following
29 criteria shall be considered for coverage pursuant to this chapter:

30 (a) Milk shipment was made after December 31, 1986.

31 (b) A valid contract between the producer and handler pursuant
32 to Chapter 1 (commencing with Section 61310) or Chapter 2
33 (commencing with Section 61801) has been filed with the ~~director~~
34 ~~secretary~~ prior to the date the milk was shipped, unless the
35 shipment was made in the first five days after the contract was
36 executed. This requirement shall not apply to all shipments made
37 prior to the effective date of this chapter.

38 (c) The handler was licensed and bonded as required by Chapter
39 1 (commencing with Section 61301) or Chapter 2 (commencing

1 with Section 61801) when the contract was filed with the ~~director~~
2 *secretary*.

3 (d) The milk was produced within the state and delivered to a
4 plant within the state.

5 (e) The ~~director~~ *secretary* has not issued a prior notice that the
6 shipments would not be covered by the fund.

7 (f) The shipment was not made under a custom processing
8 arrangement with the producer retaining title.

9 (g) The producer or cooperative shipping the milk had a direct
10 contract with the handler. In the case of a cooperative, only the
11 milk of its members shipped under the contract is covered. Milk
12 shipped to a handler under a contract held by intermediaries,
13 brokers, or agents is not covered.

14 (h) The producer does not have a beneficial ownership interest
15 in the handler to whom shipments were made.

16 (i) The producer is in compliance with this chapter, Chapter 1
17 (commencing with Section 61301), *and* Chapter 2 (commencing
18 with Section 61801); ~~and Chapter 3 (commencing with Section~~
19 ~~62700).~~

20 SEC. 21. Section 62582 of the Food and Agricultural Code is
21 amended to read:

22 62582. If the secretary determines that future shipments to a
23 handler may not be eligible for coverage under this chapter in the
24 event of a default, the secretary shall notify all producers who have
25 a contract on file with the secretary, all cooperative associations,
26 and other interested parties. The secretary may determine that
27 future shipments will not be eligible when any of the following
28 events occur:

29 (a) The handler fails to maintain a valid license or bond as
30 required under Chapter 1 (commencing with Section 61301) or
31 Chapter 2 (commencing with Section 61801).

32 (b) The handler has failed to pay producers as required under
33 Chapter 1 (commencing with Section 61301) or Chapter 2
34 (commencing with Section 61801).

35 ~~(c) The handler has failed to pay the amount due the pool~~
36 ~~equalization fund provided for in Chapter 3 (commencing with~~
37 ~~Section 62700).~~

38 (d)

1 (c) The handler fails to submit, when requested by the secretary,
2 executed contracts that establish the relationship between affected
3 parties.

4 SEC. 22. Section 62623 of the Food and Agricultural Code is
5 amended to read:

6 62623. For purposes of this chapter, the amounts owed to the
7 producers shall be calculated as follows:

8 (a) Only shipments~~which~~ *that* occur during the first 35 days
9 from the date of the earliest shipment for which a producer has
10 not been paid shall be used.

11 (b) The minimum prices established in the stabilization and
12 marketing plans applied to the usage assigned under the pooling
13 plan shall be used for cooperative marketing associations.

14 (c) The price specified in the contract with the handler shall be
15 used for manufacturing milk producers unless a lower price is
16 contained in the stabilization and marketing plans, in which case
17 the lower price shall be used.

18 (d) The minimum prices established in the stabilization and
19 marketing plans shall be used for direct market milk producers
20 who are not shipping their milk under the pooling plan.

21 (e) The quota, base, and overbase prices, as provided for in the
22 pooling plan, shall be used for producers, other than cooperative
23 marketing associations, who ship their milk directly to a handler.

24 (f) Deductions shall be made for those items which the handler
25 customarily deducts from the payments, unless the deductions are
26 in violation of Chapter 1 (commencing with Section 61301); *or*
27 Chapter 2 (commencing with Section 61801), ~~or Chapter 3~~
28 ~~(commencing with Section 62700)~~, or the deductions are for
29 voluntary assignments made by the producer.

30 (g) The producer's share of any bond recovery under Chapter
31 1 (commencing with Section 61301) or Chapter 2 (commencing
32 with Section 61801) shall be deducted.

33 SEC. 23. Section 62640 of the Food and Agricultural Code is
34 repealed.

35 ~~62640. If a handler defaults in payments to the pool~~
36 ~~equalization fund provided for in Chapter 3 (commencing with~~
37 ~~Section 62700) and the director determines that additional efforts~~
38 ~~will not result in collection of the amount due, the director, after~~
39 ~~consultation with the board, may pay money from the Milk~~

~~Producers Security Trust Fund to the pool equalization fund to cover the amount of the default.~~

SEC. 24. Section 62660 of the Food and Agricultural Code is amended to read:

62660. The ~~director~~ *secretary* may use money in the Department of Food and Agriculture Fund derived from assessments and fees collected pursuant to Chapter 1 (commencing with Section 61301); *and* Chapter 2 (commencing with Section 61801); ~~and Chapter 3 (commencing with Section 62700)~~ to the extent necessary to defray the costs of administering this chapter, except costs for which the fund is liable, as provided for in Section 62569.

SEC. 25. Chapter 3 (commencing with Section 62700) of Part 3 of Division 21 of the Food and Agricultural Code is repealed.

SEC. 26. Section 62750 of the Food and Agricultural Code is amended to read:

62750. ~~Notwithstanding any provision of Chapter 3 (commencing with Section 62700) in conflict with this section or any pooling plan for market milk in effect under that chapter,~~ *Effective* January 1, 1994, each producer shall be paid the amounts determined in accordance with this section for his or her pool quota production and for all production in excess of his or her pool quota.

(a) For all milk fat, whether or not equal to his or her pool quota, an amount determined by dividing the value of all milk fat in the pool by the amount of milk fat produced.

(b) Transportation allowances that are provided for in the pooling plan shall not be deducted from the quota milk of any region, but shall be deducted from the total solids not fat pool revenue before any price is determined for quota and nonquota solids not fat.

(c) Regional quota adjusters shall continue to be subtracted from the quota price in the established areas as specified in the pooling plan for market milk. However, the hundredweight price specified shall be converted to a solids not fat equivalent value, and the adjustments for the effect of those regional quota adjusters shall be applied to the solids not fat revenue.

(d) After taking into consideration the effect of the regional quota adjusters, the solids not fat announced quota price for those areas in which there is no regional quota adjuster shall be nineteen

1 and one-half cents (\$0.195) per pound greater than the announced
2 solids not fat price for all milk produced in excess of pool quota.

3 SEC. 27. Section 64305 of the Food and Agricultural Code is
4 amended to read:

5 64305. Fees established and assessed under this chapter may
6 be collected by the ~~director~~ *secretary* through direct payment ~~or~~
7 ~~through pool accounting procedures established by the director~~
8 ~~under Chapter 3 (commencing with Section 62700).~~